

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Gary Thelen,

Plaintiff,

v.

City of Elba, et al.,

Defendant.

Civil No. 08-1150 (JNE/JJG)

**REPORT
AND
RECOMMENDATION**

The above-entitled matter returns to the attention of the undersigned on a motion, by six of the defendants (hereinafter the City defendants), for review of a cost judgment (Doc. No. 84). After judgment was entered on the merits in this litigation, the City defendants filed a bill for \$1,195.00 in costs on April 29, 2010. Rather than filing the approved form under Local Rule 54.3(c)(1), the City defendants submitted their own notice of taxation, without supplying any supporting evidence. In a cost judgment on June 29, 2010, the Clerk found there was insufficient documentation of costs and denied any recovery.

Through their current motion, the City defendants seek to leave to correct their bill and submit documentation of their costs. According to this documentation, the City defendants now seek only \$777.00 in costs. This Court, however, does not think it appropriate to consider this evidence.

As provided by the local rule, and the directions in the Clerk's bill of costs guide, the City defendants had reason to know that their bill of costs should be substantiated with evidence. Having failed to do so, this Court finds that the City defendants waived their right to recover costs. Being duly advised of all the files, records, and proceedings herein, **IT IS HEREBY**

RECOMMENDED THAT the City defendants' motion for review of the cost judgment (Doc. No. 84) be **DENIED**.

Dated this 2nd day of February, 2011.

/s *Jeanne J. Graham*

JEANNE J. GRAHAM
United States Magistrate Judge

NOTICE

Pursuant to Local Rule 72.2(b), any party may object to this report and recommendation by filing and serving specific, written objections by **February 18, 2011**. A party may respond to the objections within fourteen days after service thereof. Any objections or responses filed under this rule shall not exceed 3,500 words. The district court judge shall make a de novo determination of those portions to which objection is made. Failure to comply with this procedure shall forfeit review in the United States Court of Appeals for the Eighth Circuit.